

CONFIDENTIAL

99

Andrew Rubin

relates to how many patients are seen?

A. I would never equate performance to the number of patients seen.

Q. What do you look at when determining whether someone, whether a doctor is performing well or not well?

A. It depends on the doctor and what they were hired to do.

Q. Let's focus on rheumatologists hired exclusively to see patients.

What would go into your determination as to whether the doctor is performing or not?

A. In the scenario you just gave, if they were hired to see patients, I would base their performance on their ability to see patients, their volume of patients.

Q. What metric, if any, do you look at when reviewing doctors who exclusively see patients?

MR. STEER: Objection as to form.

A. For purposes of compensation, we look at their RVUs.

Q. Can you describe what an RVU is?

A. An RVU is a term that is relative

CONFIDENTIAL

107

1 Andrew Rubin

2 Q. With respect to Dr. Edelman's
3 performance, were you in any way involved in her
4 performance evaluations?

5 A. In the end, yes.

6 Q. What does that mean, in the end?

7 A. It means towards the end of her
8 employment with us I became aware of performance
9 issues, clinical performance issues.

10 Q. Who made you aware of clinical
11 performance issues?

12 A. The two rheumatologists, the both head
13 of the Marcus Avenue medical complex and the
14 lead rheumatologist in the medical group, so
15 Dr. Porges and Dr. Goldberg raised concern about
16 her clinical practice.

17 Q. Besides Drs. Goldberg and Porges, did
18 anyone else raise concerns about her clinical
19 performance?

20 A. No.

21 Q. Did Joseph Antonik raise any issues
22 related to Dr. Edelman's performance?

23 A. He would not be qualified to raise any
24 issues related to her clinical performance.
25 He's not a doctor.

CONFIDENTIAL

158

1 Andrew Rubin

2 reasons.

3 Q. Are there any written policies or
4 guidelines on pay increases?

5 A. Yes.

6 MR. KATAEV: I call for the
7 production of any such records, to the
8 extent that they have not already been
9 produced, and we'll follow up in writing.

10 MR. STEER: Taken under advisement.

11 Q. Who decides the overall pool of money
12 available for pay increases?

13 MR. STEER: Objection as to form.

14 A. I can't answer that question. It's
15 not -- it's not a relevant question. It makes
16 no sense.

17 Q. Do you not know --

18 A. The Faculty Group Practice physicians
19 don't get pay increases.

20 Q. Well, when contracts eventually come
21 to -- withdrawn.

22 Any contract that NYU has with a physician
23 has a start date and end date; correct?

24 A. Yes.

25 Q. And upon the time that the contract is

CONFIDENTIAL

159

Andrew Rubin

ending, to the extent that NYU and the doctor wants to renew the contract, salary is discussed as well; correct?

A. It depends.

Q. In the situation where salary is discussed upon renewal of a contract, who decides what money is available for any increase in salary?

A. It would be me.

Q. How is the overall pool of money available for any such increases calculated?

MR. STEER: Objection as to form.

A. It depends on the circumstances of the physician, and/or the group they're in, and the location, and lots of different factors.

Q. In terms of increasing salary upon renewal of a contract, does, is it the same concerning whether you have exclusive say over how much the increase is?

Is that testimony, is that in line with the testimony we talked about previously?

MR. STEER: Objection as to form.

Can I have that read back, please?

(Whereupon, the requested question

CONFIDENTIAL

162

1 Andrew Rubin

2 you off.

3 A. Yeah. I don't know the definition of
4 performance.

5 Q. Definition of performance is the same
6 stuff we've been discussing. It's not formulaic
7 and technical.

8 A. Well, actually, it is formulaic and
9 technical. That's why the question doesn't make
10 sense.

11 Q. It's the same things we've been
12 discussing, clinical performance issues,
13 behavioral issues that we've discussed, that's
14 what I'm referring to.

15 MR. STEER: Objection as to form.

16 A. That's not what we've been discussing.

17 But if there's a question asked, I will be
18 happy to answer it.

19 Q. Had Dr. Edelman's contract been
20 renewed, to your knowledge, would she have been
21 eligible for an increase in salary?

22 A. It would have depended on the
23 circumstances at the time.

24 Q. Do you know what those circumstances
25 are right now?

CONFIDENTIAL

191

Andrew Rubin

A. I believe you asked me if that's how our bonuses are given, the answer is yes.

I answered the question.

Q. What I'm referring to, when it comes to reviewing RVUs, is not with respect to reviewing the bonuses. What I'm asking is increasing a doctor's salary either upon renewal or before that.

Same question, does the number of RVUs that a physician earns factor into how much their salary increases?

A. We don't increase their salaries. I've already told you that.

Q. Is it not true that Dr. Edelman's salary increased on renewal?

A. It may have. I really don't know.

Q. Reading paragraphs 47 and 48, would you have any knowledge as to what kind of tasks doctors are required to perform or asked to perform at NYU?

MR. STEER: Can I have that question read back, please?

(Whereupon, the requested question was read back by the reporter:

CONFIDENTIAL

244

1 Andrew Rubin

2 A. I do not.

3 Q. Were you involved in any way with the
4 renewal of Dr. Edelman's contract?

5 A. Probably.

6 Q. Now, in this contract, referring to
7 schedule A on B 59, [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Do you see that?

11 A. I do.

12 Q. However, [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Do you see that?

16 A. I do.

17 Q. To your knowledge, why did

18 [REDACTED]

19 [REDACTED]

20 A. Most likely because she got a big
21 raise.

22 Q. What does that mean, she got a big
23 raise?

24 A. It means her salary went up from her
25 first contract.